

Sanford Jay Rosen, State Bar No. 62566  
Maria V. Morris, State Bar No. 223903  
Lori E. Rifkin, State Bar No. 244081  
ROSEN, BIEN & GALVAN, LLP  
315 Montgomery Street, Tenth Floor  
San Francisco, CA 94104  
Telephone: (415) 433-6830  
Facsimile: (415) 433-7104  
srosen@rbg-law.com

[Additional Counsel Listed on Following Page]

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO/OAKLAND DIVISION

CLAUDE BRYANT, CRAIG FULCHER,  
SANFORD LEVINE and THOMAS  
THOMPSON, on behalf of themselves and all  
other employees and former employees similarly  
situated,

Plaintiffs,

v.

ALDERWOODS GROUP, INC., SERVICE  
CORPORATION INTERNATIONAL, SCI  
FUNERAL AND CEMETERY PURCHASING  
COOPERATIVE, INC., SCI EASTERN  
MARKET SUPPORT CENTER, L.P., SCI  
WESTERN MARKET SUPPORT CENTER, L.P.  
a/k/a SCI WESTERN MARKET SUPPORT  
CENTER, INC., SCI HOUSTON MARKET  
SUPPORT CENTER, L.P., JANE D. JONES,  
GWEN PETTEWAY, THOMAS RYAN, PAUL  
A. HOUSTON and CURTIS BRIGGS,

Defendants.

) Case No. CV 07-5696

) **PLAINTIFFS' CASE MANAGEMENT**  
) **STATEMENT**

1 Additional Attorneys for Plaintiffs, who will submit  
2 applications for admission *pro hac vice*:

3 Patrick J. Solomon, NY Attorney No. 2716660  
4 Annette Gifford, NY Attorney No. 4105870  
5 DOLIN, THOMAS & SOLOMON LLP  
6 693 East Avenue  
7 Rochester, NY 14607  
8 Telephone: (585) 272-0540  
9 Facsimile: (585) 272-0574  
10 psolomon@theemploymentattorneys.com

11 Charles H. Saul, PA State Bar No.19938  
12 Liberty J. Weyandt, PA State Bar No. 87654  
13 MARGOLIS EDELSTEIN  
14 525 William Penn Place  
15 Suite 3300  
16 Pittsburgh, PA 15219  
17 Telephone: (412) 281-4256  
18 Facsimile: (412) 642-2380  
19 csaul@margolisedelstein.com  
20  
21  
22  
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1 Plaintiffs submit this case management statement in lieu of the joint case management  
2 statement because Defendants have not yet been served. The deadline for service of the  
3 Complaint under the Federal Rules of Civil Procedure is March 10, 2008. Plaintiffs may also file  
4 an Amended Complaint prior to the Complaint being served. Plaintiffs are prepared to attend the  
5 Case Management Conference. However, Plaintiffs are also amenable to a continuance of the  
6 Case Management Conference until all parties have been served.

7 Plaintiffs expect that this statement will be amended, or a joint statement will be submitted,  
8 after issue has been joined in this case.

9 **1. Jurisdiction and Service**

10 This Court has subject matter jurisdiction over plaintiffs' claims because they arise out of  
11 violations of the Fair Labor Standards Act and therefore present a federal question. Defendants  
12 have not yet been served, and Plaintiffs intend to serve the Complaint by March 10, 2008.  
13 Plaintiffs may also file an Amended Complaint prior to the Complaint being served.

14 **2. Facts**

15 Plaintiffs Claude Bryant, et al., on behalf of themselves and other employees similarly  
16 situated ("Plaintiffs") were employed by Defendants. Plaintiffs allege that, while they were  
17 employed by Defendants, Defendants failed to pay Plaintiffs overtime wages for overtime hours  
18 worked and failed to provide accurate wage statements.

19 The Complaint sets out Plaintiffs' claims pursuant to the FLSA concerning maintenance of  
20 records. Plaintiffs seek to represent a proposed class of current and former employees of  
21 Defendants who were employed by Defendants and subject to Defendants' improper pay policies.

22 **3. Legal Issues**

23 The legal issues in this case concern whether the Defendants violated the FLSA, 29 U.S.C.  
24 § 201 *et seq.* by failing to pay employees for overtime hours pursuant to various policies  
25 maintained by Defendants. For example, Defendants required plaintiffs to perform work, such as  
26 on-call work, community work, training and other work, without pay. The legal issues also  
27 include whether the Defendants violated the FLSA, 29 U.S.C. § 201 *et seq.* by failing to maintain  
28

1 proper records that adequately and accurately reflect hours worked each day and each week, and  
2 overtime compensation.

3 **4. Motions**

4 Currently, there are no pending motions. Plaintiffs will likely submit a motion seeking to  
5 send court-authorized notice to similarly situated employees. As the case moves forward, there  
6 may be motions related to discovery, summary judgment motions, and motions on the pleadings.

7 **5. Amendment of Pleadings**

8 Plaintiffs may amend their Complaint prior to service. However plaintiffs propose that the  
9 deadline to amend pleadings after service be set at a date after the close of discovery.

10 **6. Evidence Preservation**

11  
12 This issue is more properly directed to Defendants who likely have records concerning the  
13 issues in this case, such as the time worked by their employees and how much they were paid.

14 **7. Disclosures**

15 As the defendants have not yet been served, initial disclosures have not yet been made.

16 **8. Discovery**

17 To date, no discovery has been completed in this case. Plaintiffs propose that discovery  
18 commence after plaintiffs' motion for conditional certification of the FLSA claims. Plaintiffs  
19 propose that the date by which plaintiffs are to submit their motion for conditional certification be  
20 set as May 5, 2008. After such motion is determined, plaintiffs proposed that a conference be held  
21 with the Court to develop a schedule for discovery.

22 **9. Class Actions**

23 This case is a collective action under the FLSA. Pursuant to 29 U.S.C. § 216(b), other  
24 employees may opt into this action. Plaintiffs suggest that the deadline for their motion for  
25 conditional certification of a collective action be set as May 5, 2008.

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2           **10.     Related Cases**

3           Two cases arising out of employment practices of these defendants are currently being  
4 litigated in the Superior Court of the State of California, County of Alameda. These are Bryant, et  
5 al. v. Service Corporation, et al. (Case No. RG 07359593) and Helm, et al. v. Alderwoods Group,  
6 Inc., et al (Case No. RG 07359602). However, those cases present only state law claims, and the  
7 FLSA claims of the Plaintiffs in the instant case are not being litigated in those cases or in any  
8 other court. Plaintiffs split their state and federal law claims based on a ruling by the Western  
9 District of Pennsylvania in a similar case in which the federal court declined to exercise  
10 supplemental jurisdiction over the state law claims.

11           As disclosed in Plaintiffs' Notice of Pendency of Other Actions, filed November 8, 2007,  
12 at the time this case was filed, there were two actions pending in federal courts which involved a  
13 material part of the same subject matter as the instant action, in that all of these proceedings  
14 related to the defendants' policies and practices regarding their employees' overtime pay. The first  
15 action, Prise, et al. v. Alderwoods Group, Inc., et al. (W.D.Pa. 06-cv-1641)("Prise I"), is a  
16 collective action under the Fair Labor Standards Act brought by defendants' current and former  
17 employees. None of the Plaintiffs in the instant action are parties to the Prise I litigation and  
18 because the opt-in period in that case has passed for most of the Plaintiffs in the instant action,  
19 they are not eligible to participate in the Prise I action. The second action, Prise v. Alderwoods  
20 Group, Inc., et al., (N.D.Cal. 07-cv-5140)("Prise II") was a class action brought by current and  
21 former employees for violation of various states' wage and hour laws, as well as for violations of  
22 state common laws. That case was voluntarily dismissed without prejudice on December 5, 2007.  
23 None of the Plaintiffs in the instant action were named plaintiffs in the Prise II action.

24           **11.     Relief**

25           Plaintiffs seek to recover all overtime compensation denied them because of Defendants'  
26 policies. In addition, Plaintiffs seek liquidated damages in an equal amount. Further, Plaintiffs  
27 are entitled to attorneys' fees and costs. Plaintiffs will also seek any other damages to which they  
28 are entitled under federal or state law. It is premature to estimate the total amount of damages.

1           **12. Settlement and ADR**

2           At the present time, given that Defendants have not yet been served, no settlement  
3 discussions have occurred. Most likely, the appropriate time for the parties to engage in  
4 settlement discussions would be after a decision has been rendered on plaintiffs' Motion for  
5 Conditional Certification.

6           **13. Consent to Magistrate Judge Jurisdiction**

7           Because defendants have not yet been served, the parties have not discussed whether they  
8 will consent to magistrate judge jurisdiction.

9           **14. Other References**

10          Plaintiffs do not believe the case is suitable for reference to binding arbitration, a special  
11 master or multidistrict litigation.

12          **15. Narrowing of Issues**

13          Because defendants have not yet been served, the parties have not discussed whether the  
14 issues can be narrowed by agreement or by motion or how to expedite the presentation of evidence  
15 at trial.

16          **16. Expedited Schedule**

17          Plaintiffs do not believe this case can be handled on an expedited basis, except their  
18 motion for conditional certification should be given expedited consideration due to statute of  
19 limitations issues.

20          **17. Scheduling**

21          Plaintiffs propose that deadlines for designation of experts, discovery cutoff, hearing of  
22 dispositive motions, pretrial conference and trial be set after a decision is rendered on their motion  
23 for conditional certification.

24          **18. Trial**

25          Plaintiffs have demanded a jury trial. Plaintiffs believe the trial may last up to one month.

26          **19. Disclosure of Non-party Interested Entities or Persons**

27          Other than the parties, including the putative class members, plaintiffs are not aware of any  
28 other person, firm, partnership or corporation with a financial interest in the subject matter in

1 controversy or in a party to the proceeding or any other kind of interest that could be substantially  
2 affected by the outcome of this proceeding.

3 Respectfully Submitted,

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5 ROSEN, BIEN & GALVAN, LLP

6 Date: February 12, 2008

7 By: /s/ Lori Rifkin

8 Sanford Jay Rosen, State Bar No. 62566  
9 Maria V. Morris, State Bar No. 223903  
10 Lori E. Rifkin, State Bar No. 244081  
11 315 Montgomery Street, Tenth Floor  
12 San Francisco, CA 94104  
13 Telephone: (415) 433-6830

14 DOLIN, THOMAS & SOLOMON LLP  
15 Patrick J. Solomon, NY Attorney No. 2716660  
16 Annette Gifford, NY Attorney No. 4105870  
17 693 East Avenue  
18 Rochester, NY 14607  
19 Telephone: (585) 272-0540

20 MARGOLIS EDELSTEIN  
21 Charles H. Saul, PA State Bar No. 19938  
22 Liberty J. Weyandt, PA State Bar No. 87654  
23 525 William Penn Place, Suite 3300  
24 Pittsburgh, PA 15219  
25 Telephone: (412) 281-4256  
26 Attorneys for Plaintiffs  
27  
28